Testimony indicated that the subject property, known as 5902 Hamilton Avenue and zoned D.R. 5.5, was purchased by the Emerald Development Corporation in September 1988. Mr. Bohager testified that the property, which is also known as Lot No. 124 of the Rosedale Farms subdivision, is the original lot as laid out in the 1920 subdivision plans recorded in the Baltimore County Land Records. Testimony presented indicated that over 90% of the lots in the development are 50 feet wide and developed with single family dwellings. The property in question is currently vacant. The Petitioners propose to construct a Ryland modular ranch style Shome, in accordance with Petitioner's Exhibit 3, that will comply with the front, side and rear yard setback requirements. Petitioners argued that #5-5 PETITION FOR ZONING VARIANCE TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1802.3.C.1 To allow a buildable lot with a minimum width of 50 ft. in lieu of the required 55 ft. of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty) 1) The single family proposed is 28tt. wide which provides for side yard setbacks is within accordance to Baltimore County Code.

2) Subject property and entire subdivision is residential and without requested variance, subject property is not capable of being developed, there by creating practical difficulty or hardship with reguard to developetability. 3) The granting of this variance will not result in injury to public health, safety or welfare.

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions, of NE3E Baltimore County adopted pursuant to the Zoning Law For Baltimore County. I/We do solemnly declare and affirm, under the penalties of perjury, that I wa. 14 B are the legal owner(s) of the property which is the subject of this Petition. DATE 2/1/27 Legal Owner(s): <u>Evelyn E. Berry</u> Low C 52 Keith A. Randlett 6539 CORKLEY RD. 566-5923 BAUD. MD. 21237 Name, address and phone number of legal owner con-tract purchaser or representative to be contacted  $\mathbb{Z}_{2}$ C) ORDERED By The Zoning Commissioner of Baltimore County, this \_\_\_\_\_\_ f september 19\_8, that the subject matter of this petition be advertised, as equired by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore day of Movember, 1988, at 2 o'clock

/ Zoning Commissioner of Baltimore County.

ESTIMATED LENGTH OF HEARING -1/2HB.

AVAILABLE FOR HEARING

MON TUES. WED. - NEXT TWO MONTHS

DATE 8-10-88

IN RE: PETITION FOR ZONING VARIANCE

E/S Hamilton Avenue,

51.75' SW of 33rd Street

(5902 Hamilton Avenue)

14th Election District

Robert C. Berry, et ux

Petitioners

7th Councilmanic District

\* BEFORE THE

\* \* \* \* \* \* \* \* \* \*

The Petitioners herein request a variance to permit a buildable

The Petitioners, by Michael E. Marino, Esquire, appeared and

FINDINGS OF FACT AND CONCLUSIONS OF LAW

lot with a minimum width of 50 feet in lieu of the required 55 feet, for a

proposed single family dwelling in accordance with Petitioner's Exhibit 1.

testified. Also appearing on behalf of the Petition was Anthony J.

Mierzwicki, President, Emerald Development Corporation, Contract Purchaser

of the subject property, and Leonard Bohager, a registered professional

land surveyor with McKay and Associates. Eugene Stacharowski, the adjoin-

ing property owner, appeared as an interested party.

\* DEPUTY ZONING COMMISSIONER

\* OF BALTIMORE COUNTY

\* Case No. 89-192-A

to deny the requested variance would result in practical difficulty in rendering the lot undevelopable. Further testimony indicated that the granting of the variance will not result in any detriment to the health, safety, or general welfare of the community. After reviewing the proposed plans, Mr. Stacharowski indicated he had no objection to the request.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this day of December, 1988 that the Petition for

SHAWAN PLACE, 5 SHAWAN ROAD

DESCRIPTION OF

5904 HAMILTON AVENUE

14TH ELECTION DISTRICT

BALTIMORE COUNTY, MARYLAND

MCKEE & ASSOCIATES, INC.

Engineering - Surveying - Real Estate Development

Telephone: (301) 252-5820

August 10, 1988

Beginning at a point on the east side of Hamilton Avenue, 51.75 feet south

of the south side of 33rd Street. Being Lot 124 of the plat of Rosedale Farms,

as recorded among the land records of Baltimore County in Plat Book 5, page 61.

Zoning VAriance to permit a buildable lot with a minimum width of 50 feet in lieu of the required 55 feet, for a proposed single family dwelling in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however to the following restrictions, which are conditions precedent to the relief granted:

- 1) The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original
- 2) Petitioner shall not request any future front, rear or side yard setbacks for the subject property.
- 3) Petitioner shall construct on the property the Ryland modular ranch home as depicted in Petitioner's

ANN M. NASTAROWICZ Deputy Zoning Commissioner

#55

**HUNT VALLEY, MARYLAND 21030** 

for Baltimore County

I'DYSCE OF HEARING The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 10% of the County Office Building, located at 111 W. Chesapsake Averuse in Towson, Maryland as fol-Patition for Zoning Variance Case number: 89-192-A -E/S Handton Avenue, 51.75' S/V of 33rd Street (5902 Hamilton Avenue) 14th Election District 7th Councilmanic Owner(s)

Contract Purchaser(s):
Emerald Development
Corporation
Hearing Date: Tuesday,
Nov. 29, 1968 at 2:00 p.m.\*

Verlance: to allow a buildable lot with a minimum width of 50 ft. in lieu of the required 55 ft. If PHASE If OF THE SNOW EMERGENCY PLAN IS IN EFFECT ON THIS DATE, CASE MAY BE RESCHEDULED. CALL 494-3391 TO CONFIRM DATE. In the event that this Petition is cranted a bruilfice narrate was the granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office. and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES
Zoning Commissioner of
Baltimore County

11/278 Nov. 3

TOWSON, MD. november 3 , 1988 THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on Nov 3, 1988.

5-Zefe\_Olm

Publisher

THE JEFFERSONIAN.

PO 05760 neg M20396 89-192-A price \$41.25

CERTIFICATE OF PUBLICATION

NOTICE OF HEARING The Zoning Commissioner of Balti-more County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 105 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Case Number: 89-192-A Patition for Zoning Variance ES Hamilton Avenue, 51.75 SW of 33rd Street (5902 Hamilton Avenue) 14th Election District 7th Councilmanic District
Owner(a): Robert C. Berry, et ux
Contract Purchasor(s): Emerald Development Corporation
HEARING SCHEDULED: TUESDAY, NOVEMBER 29, 1988 at 2:00 p.m.\* Variance to allow a buildable lot with a maximum width of 50 ft. in The second with the second sec In the event that this Petition is

## CERTIFICATE OF PUBLICATION

Dundalk Eagle

4 N. Center Place P. O. Box 8936 Dundalk, Md. 21222

November 3,

THIS IS TO CERTIFY, that the annexed advertisement of Robert Haines in the matter of Zoning Hearings -Case #89-192-A - P.O. #05759 - Req. #M20388 - 87 lines a \$43.50. The Dundalk Eagle a weekly newspaper published in Baltimore County, Maryland, once a week

successive weeks before the

19<sub>03</sub>; that is to say, day of November the same was inserted in the issues of Nov. 3, 1988

> Kimbel Publication, Inc. per Publisher.

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towner, Maryland

District 14 Th  Posted for: Variance	Date of Posting 11/14/87
Posted for: Variance	
Petitioner: Robert C. B	erry etas
Location of property: E/S Homil	ton Are , 51.75' SW/337d St
5902 Homillon	
Location of Signe: Facing Homil	Ton Ave, approx, 10 Fr. Too Lway,
On property of Politioner	
Remarks:	
Posted by Mistaly	Date of return: 11/14/87
Signature	Date of return:
Number of Signs:/	

December 7, 1988 Michael E. Marino, Esquire 10 E. Baltimore Street Baltimore, Maryland 21202

RE: PETITION FOR ZONING VARIANCE Dennis F. Rasmussen F/S Hamilton Avenue, 51.75' SW of 33rd Street (5902 Hamilton Avenue) 14th Election District - 7th Councilmanic District

Robert C. Berry, et ux - Petitioners Case No. 89-192-A

Dear Mr. Marino:

Baltimere County Zoning Commissioner Office of Planning & Zoning

Towson, Maryland 21204

XXXXXX 887-3353

J. Robert Haines

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 494-3391.

> Very truly yours, ( M Naskow. a

ANN M. NASTAROWICZ Deputy Zoning Commissioner

for Baltimore County

cc: Mr. Eugene Stacharowski 5904 Hamilton Avenue, Baltimore, Md.

Mr. Anthony J. Mierzwicki, President Emerald Development Corporation 16 Oakridge Court, Lutherville, Md. 21093

People's Counsel

File

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204

granted, a bridding permit may be is-sued within the thirty (30) day appeal period. The Zoning Commissioner will, however, antertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writ-ing and received in this office by the date of the hearing set above or presented at the hearing.
J. ROBERT HAINES

Zening Commissioner of Baltimore County

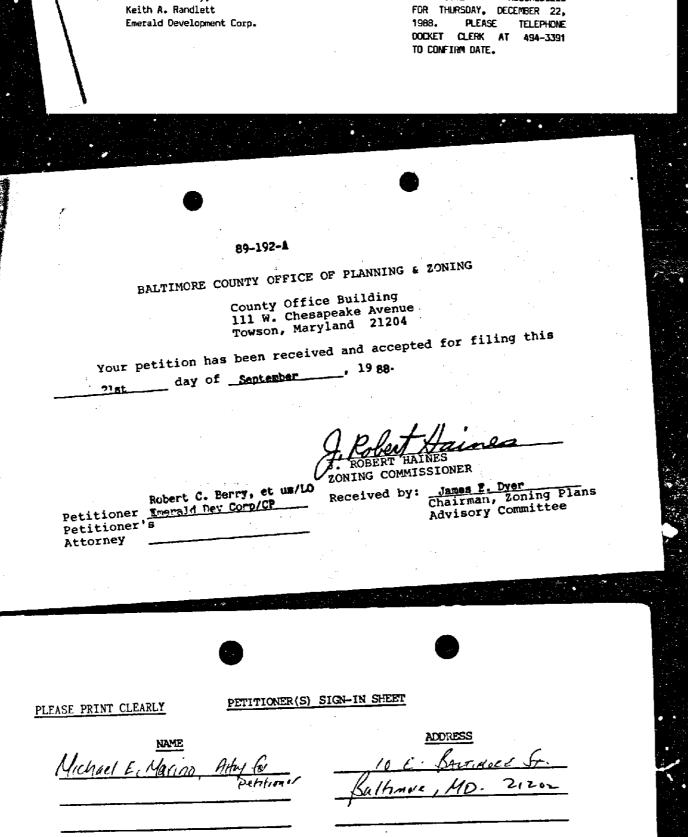
\*IF PHASE II OF SNOW EMERGENCY PLAN IN EFFECT ON THIS DATE, CASE WILL BE RESCHEDULED. Zoning Commissioner Office of Planning & Zoning CALL 494-3391 TO CONFIRM DATE. J. Robert Haines Zoning Commissioner Mr. Keith A. Randlett 6539 Corkley Road Baltimore, Maryland 21237 Re: Petition for Zoning Variance CASE NUMBER: 89-192-A ES Hamilton Avenue, 51.75¹ SW of 33rd Street (5902 Hamilton Avenue) 14th Election District - 7th Councilmanic Owner(s): Robert C. Berry, et ux Contract Purchaser(s): Emerald Development Corporation HEARING SCHEOULED: TUESDAY, NOVEMBER 29, 1988 at 2:00 p.m.\* Dear Mr. Randlett: Please be advised that 499.75 is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself. Please make your check payable to Baltimore County, Maryland and bring it along with the sign(s) and post(s) to the Zoning Office, County Office Building, Room 111, Towson, Maryland 21204 fifteen (15) minutes before buttuing, noon and had to broin BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE - REVENUE DIVISION MISCELLANEOUS CASH RECEIPT epost set(s), there leach set not DATE JANGUES R-01-65-000 B BEET .... \$ 57 8 - 182-

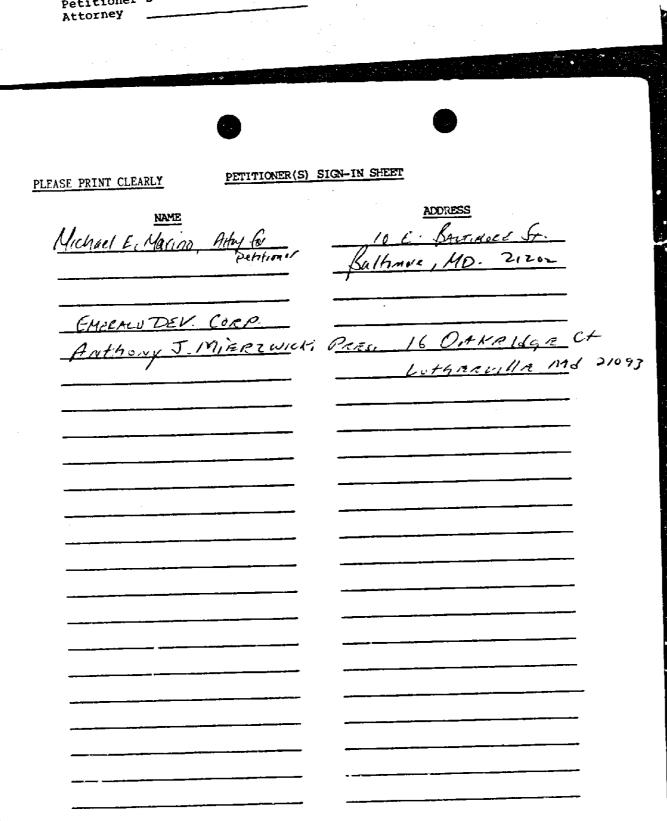
**2844 RANCH** 

RYLAND MODULAR HOMES

GABLE FRONTIER'S

Baltimore County Zening Commissioner Office of Planning & Zoning Towson, Maryland 21204 J. Robert Haines NOTICE OF HEARING The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows: Case Number: 89-192-A Petition for Zoning Variance ES Hamilton Avenue, 51.75' SW of 33rd Street (5902 Hamilton Avenue) 14th Election District - 7th Councilmanic Owner(s): Robert C. Berry, et ux Contract Purchaser(s): Emerald Development Corporation HEARING SCHEDULED: TUESDAY, NOVEMBER 29, 1988 at 2:00 p.m.\* Variance to allow a buildable lot with a minimum width of 50 ft. in lieu of the required In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing. \*NOTE: IF PHASE II OF THE SNOW EMERGENCY PLAN IS IN EFFECT IN BALTIMORE COUNTY BY 8:30 J. ROBERT HAINES a.m. ON THE DATE OF THE Zoning Commissioner of ABOVE HEARING, SUCH HEAR-Baltimore County ING WILL BE POSTPONED AND cc: Robert C. Berry, et ux TENTATIVELY RESCHEDULED Keith A. Randlett FOR THURSDAY, DECEMBER 22. Emerald Development Corp. 1988. PLEASE TELEPHONE DOCKET CLERK AT 494-3391





Zoning Commissioner
Office of Planning & Zoning Towson, Maryland 21204 494-3353 J. Robert Haines Zoning Commissioner

## NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows: Case Number: 89-192-A Petition for Zoning Variance

ES Hamilton Avenue, 51.75' SW of 33rd Street (5902 Hamilton Avenue) 14th Election District - 7th Councilmanic Duner(s): Robert C. Berry, et ux Contract Purchaser(s): Emerald Development Corporation HEARING SCHEDULED: TUESDAY, NOVEMBER 29, 1988 at 2:00 p.m.\*

Variance to allow a build ale lot with a minimum width of 50 ft. in lieu of the required

within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES Zoning Commissioner of Baltimore County cc: Robert C. Berry, et ux Keith A. Randlett Emerald Development Corp.

Baltimore County

Paul H. Reincke

Fire Department
Towson, Maryland 21204-2586

\*NOTE: IF PHASE II OF THE SNOW EMERGENCY PLAN IS IN EFFECT IN BALTIMORE COUNTY BY 8:30 a.m. ON THE DATE OF THE ABOVE HEARING, SUCH HEAR-ING WILL BE POSTPONED AND TENTATIVELY RESCHEDULED FOR THURSDAY, DECEMBER 22. 1988. PLEASE TELEPHONE OOCKET CLERK AT 494-3391 TO CONFIRM DATE.

Dennis F. Rasmussen

J. Robert Haines Zoning Commissioner Office of Planning and Zoning Baltimore County Office Building Towson, MD 21204 Re: Property Owner: Legal Owner - Robert C. Berry - et ux Contract Purchaser - Emerald Development Corp. Location: E/S Hamilton Avenue, 51.75' SW of 33rd Street

September 26, 1988

590 Hamilton Avenue Zoning Agenda: Meeting of 9/20/88

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

( ) 1. Fire hydrants for the referenced property are required and shall be located at intervals or \_\_\_\_ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works. ( ) 2. A second means of vehicle access is required for the site. ( ) 3. The vehicle dead end condition shown at \_\_\_\_\_

EXCEEDS the maximum allowed by the Fire Department. 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

(x) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Pro-tection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy. ( ) 6. Site plans are approved, as drawn.

( ) 7. The Fire Prevention Bureau has no comments at this time.

VARIANCE TO SECTION 1807.3.C.1 (DR.5.5) TO PERMIT A MINIMUM LOT WIDTH OF SO FEET IN LIEU OF THE REQUIRED 55 FOOT MINIMUM. FRANK + CECILIA JANKOWIAK VICINITY MAP Acot. No. 1410000700 \_\_\_SCALE 1 1 1200 --- Robert C. I evelyn e. Berry ---EUGENE - THERESA STACHAROWSKI Arct. No : 1419074375 **\$5900** 2 STY. Proposed FRAME DWLG. Dwelling Plat altered Community Purposes. Let size: 8575 Existing Utilities in Hamilton Ave. ZONING PLAT \*5902 HAMILTON AVE. 14TH. ELECT. DIST. BALTO. CQ., MD MCKEE & ASSOCIATES, INC SCALE: 1 30 7/30/88 CIVIL ENGINEERS - LAND SURVEYORS LOT |24 wan Place • 5 Shawan Roc ROSEDALE FARMS Hunt Valley, MD 21030

EXISTING ZONING ' DR 5.5

301-252-5820

ZONING REQUESTING A

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 405
Towson, Maryland 21204 Dennis F. Rasmussen Mr. J. Robert Haines Zoning Commissioner County Office Building RECEIVED ZONING OFFICE DATE: \_/1//// Towson, MD 21204

The Bureau of Traffic Engineering has no comments for items number 55, 93, 94, 95, 96, 98, 99, 100, & 101.

Very truly yours, Michael S. Flanigan Traffic Engineer Associate II

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE November 16, 1988

COUNTY OFFICE BLDG. 111 W. Chesapeake Ave. Towson, Maryland 2120 Mr. Keith A. Randlett 6539 Corkley Road Baltimore, Maryland 21237

RE: Item No. 55 - Case No. 89-192-A Petitioner: Emerald Pevelopement Corp. - Contract Purchaser MEMBERS Robert C. Berry, et ux - Legal Owner Petition for Zoning Variance

Dear Mr. Randlett: State Roads Commissi

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested. but to assure that all parties are made aware of plans or problems Project Planning with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the Building Department Board of Education requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours, James E. Dyelde JAMES E. DYER